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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,552	12/28/2006	Linas Giniunas	292570US2PCT	9840
22850	7590	06/26/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LESTER, EVELYN A	
			ART UNIT 2873	PAPER NUMBER
			NOTIFICATION DATE 06/26/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,552	<b>Applicant(s)</b> GINIUNAS ET AL.	
	<b>Examiner</b> Evelyn A. Lester	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6-19-06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Objections***

3. Claim 13 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 13 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, line 2, the phrase “for instance” does not provide for a definite limitation to the claimed invention. It is the same as saying “for example,” which is indefinite because the scope of the claim can not be ascertained. Further, the term “quasi-” is considered indefinite because the metes and bounds are unclear. It is unclear what could acceptably read on this limitation. Also, in line 7, the term “plain” should probably be corrected to read ---plane---. There is also no antecedent basis for “the first focusing element”; “the fast axis collimator”; the light source”.

With respect to claim 2, line 2, again the term “quasi-” is considered indefinite, for the reasons stated above. There is not antecedent basis for “the first element,” even though three elements were introduced previously in the claim, there is no distinction made between them. Also it is unclear whether the lens elements are suppose to be the cylindrical lens elements from claim 1 or not. There if no antecedent basis for “the two multi-segment elements.” It is unclear at line 4, which element is “the first,” because there are “quasi-cylindrical elements,” three optical elements” and “the first element” introduced in the claimed invention. The phrase “may be” and “for instance” introduce elements that it is unclear whether or not the limitation is part of the claimed invention, i.e. the scope can not be determined. There is no antecedent basis for “the second one

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at line 5. Also, is the “glass plate” required for the claimed invention or not? The term “appropriate” is a relative term the scope of which is undeterminable. \

With respect to claim 3, there is no antecedent basis for “the first multi-segment element”; “the initial asymmetrical beam”; “the certain distance”; and “the second multi-segment element.” It is also unclear whether or not “the above mentioned surfaces” refers to the “surface segments” or not.

With respect to claim 4, there is no antecedent basis for “the segments of the surface” and “the first multi-segment element”. Also the phrase beginning with “which is laser...” adds no positive claim limitation, and confuses the scope of the claim language.

With respect to claim 5, there is no antecedent basis for “the different emitters” and the antecedent basis is a bit confusing for “the laser diode bar,” because there is no definite claimed element in claim 1 from which claim 5 depends. Also, the phrase “relatively large” is a relative limitation, wherein the metes and bounds of the scope are confusing. There is also no antecedent basis for “the fast axis collimator”; “the beam separating multi-segment element”. In the last line of claim 5, the term “i.e. in the near field” is indefinite. It is unclear what the intended scope of the claim is because of this exemplary claim language.

With respect to claim 6, there is no antecedent basis for “the multi-segment element”; “the initial asymmetrical beam”; “the far field”; “the initial beam”; “the focusing element”. The overall content of claim 6 is unclear, especially with regards to the last two lines.

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With respect to claim 7, there is no antecedent basis for “the surfaces of the segments”; “the initial beam separating multi-segment element”; “the separated beams”. The majority of the claim language of claim 7 follows the term “i.e.” (which translates as “that is”), which is considered to be exemplary claim language. Therefore the scope of the claim is unclear and hence indefinite.

With respect to claim 8, there is no antecedent basis for “the initial asymmetrical beam”; “the far field”; “the field curvature aberration”; “the first focusing element”; “the surfaces of different segments of beam-splitting multi-segment element”. The phrase “for instance” introduces claim limitations, wherein it is unclear whether the limitations are part of the claimed invention or not, i.e. scope undeterminable.

With respect to claim 9, there is no antecedent basis for “the initial asymmetrical beam”; “the near field”; “the field curvature aberration”; “the first focusing element”; “the input surfaces of different segments”; “the second multi-segment element”; and “the shaper axis”.

With respect to claim 10, there is no antecedent basis for “the surfaces”; “the second multi-segment element”; “the z-axis”; “the above mentioned surfaces in the direction of the slow axis”; “the output plane”; “the output focus”. Also, the relative terms of “optimized” and “quasi-” introduce indefiniteness due to the scope being undeterminable.

With respect to claim 11, there is no antecedent basis for “the surfaces of optical elements”; “the plains”; “optimized surfaces”; “the second and higher order”; “the aberrations”; “the straight line”. The phrase “for instance” introduces exemplary claim

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language and it is unclear if any of the limitations following this phrase are to be part of the claimed invention or not.

With respect to claim 12, there is no antecedent basis for "the two laser diode bars"; "the first multi-segment elements"; "the second common multi-segment element"; "the sources"; and "the two different wavelengths". It is unclear what the last two lines of claim 12 mean.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12, as far as these claims are understood in light of the numerous 35 U.S.C. 112, second paragraph, indefiniteness indicated above, are rejected under 35 U.S.C. 102(b) as being anticipated by Hurevich et al (U.S. Patent 6,407,870 B1).

Hurevich et al disclose the claimed invention of a laser beam shaper, designed to make symmetrical and to focus asymmetrical laser diode light beams, characterized in that the beams in the direction of the fast axis and the slow axis the beams are focused

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by independent optical surfaces of cylindrical lenses. Please note for example Figure 2 and its accompanying text.

With respect to claims 2-12, please note Figure 2, as well as the Summary of the Invention in column 3; also note column 4, lines 47-49, 59-60 and 63-64; column 5, lines 7-8; as well as any text accompanying Figure 2. Figure 2 clearly depicts multi-segmented elements which function to reshape the asymmetrical beams. As noted in Figures 3a and 3b, the beams are also not overlapped.

\*\*\* The Applicant should not that it is difficult to apply prior art to show lack of novelty and/or obviousness of that which is indefinite without undue speculation and conjecture as to what is claimed. See In re Steel, 305 F.2d 859, 134 USPQ 292 (CCPA 1962). Therefore, the above prior art rejection is applied as best as possible, as far as the claims are understood.\*\*\*

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following are U.S. Patents directed to light beam shaper optical systems appear similar to that of the claimed invention:

Lissotschenko et al

U.S. Patent 6,421,178 B1

Fermann

U.S. Patent 6,700,709 B1



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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evelyn A. Lester whose telephone number is (571) 272-2332. The examiner can normally be reached on M-F, subject to an increased flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Evelyn A. Lester/  
Primary Examiner  
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